



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2108

Introduced 2/20/2009, by Sen. Dale A. Righter

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1303.1 new

Amends the Code of Civil Procedure. In actions for money damages in actions at law or in arbitration, authorizes either party to make an offer of settlement. If the offer is refused, the offering party is authorized prejudgment interest at 9% per annum from the date of the offer to the entry of the award or judgment if the offer was better for the refusing party than the award or judgment. Sets forth requirements for tender of an offer. Exempts actions by or against a governmental entity, actions in small claims, claims for punitive damages, actions governed by a contractual provision authorizing prejudgment interest, and actions governed by a more specific statute. Applies to causes of action accruing after January 1, 2010. Effective January 1, 2010.

LRB096 05800 AJO 15878 b

1 AN ACT concerning prejudgment interest.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by adding
5 Section 2-1303.1 as follows:

6 (735 ILCS 5/2-1303.1 new)

7 Sec. 2-1303.1. Prejudgment interest.

8 (a) If a party seeks money damages in an action at law or
9 in arbitration and (i) before trial commences, that party makes
10 a written offer of settlement in a specific dollar amount to a
11 party from whom damages are sought, (ii) the offer is refused,
12 and (iii) judgment for the party making the offer and against
13 the party to whom the offer is made is more than the amount of
14 the offer, then prejudgment interest at the rate of 9% per
15 annum must be awarded from the date the offer was made until
16 the award or judgment is entered.

17 (b) If a party seeks money damages in an action at law or
18 in arbitration and (i) before trial commences, a party against
19 whom damages are sought makes a written offer of settlement in
20 a specific dollar amount to a party seeking damages, (ii) the
21 offer is refused, and (iii) judgment against the party making
22 the offer and for the party to whom the offer is made is less
23 than the amount of the offer, then prejudgment interest at the

1 rate of 9% per annum from the date the offer was made until the
2 award or judgment is entered must be deducted from the award or
3 judgment.

4 (c) In this Section, "actions at law" include
5 counterclaims, third-party actions, and claims for
6 contribution.

7 (d) A written offer under this Section must reference this
8 Section and be tendered by (i) personal service by the sheriff
9 or private process server; (ii) certified mail, return receipt
10 requested; or (iii) any method in which delivery is documented
11 and tracked by accepted business practices. The written offer
12 may be tendered by a party, his or her attorney, or his or her
13 liability insurer and may be tendered to the other party, his
14 or her attorney, or his or her liability insurer.

15 (e) This Section does not apply to any of these parties or
16 situations:

17 (1) A unit of local government, as defined Section 1 of
18 Article VII of the Illinois Constitution, a school
19 district, a community college district, or any other
20 governmental entity.

21 (2) Actions in small claims.

22 (3) Claims for punitive damages.

23 (4) If the cause of action and its legal dispute are
24 subject to a written contract or agreement between the
25 litigants in which prejudgment interest is authorized by
26 the contract or agreement entered into after January 1,

1 2010.

2 (5) If the cause of action and its legal dispute are
3 governed by a more specific statute.

4 Section 99. Effective date. This Act takes effect January
5 1, 2010.